

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	Case No. 4:21-CR-00038 AGF/NAB
)	
ROBERT MCNAIR,)	
Defendant.)	

MOTION TO SUPPRESS PHYSICAL EVIDENCE

COMES NOW Defendant, by counsel, and moves this Court to suppress as evidence in this case a Sig Sauer .357 pistol (Serial Number AF15159), 11 .357 caliber live rounds of ammunition, an empty PT111 Pro Cal 9mm caliber pistol magazine, a Pro Mag extended pistol magazine, and 28 9mm caliber live rounds of ammunition seized on or about November 12, 2020. As grounds, Defendant states:

1. At approximately 9:30 a.m., on November 12, 2020, Defendant reported to the United States Probation Office located at 111 S. 10th Street, St. Louis, Missouri 63102.
2. Defendant was detained upon his arrival at the United States Probation Office.
3. The United States Probation Office's Special Response Team (SRT) subsequently conducted a search of Defendant's person, vehicle, and residence located at 6428 St. Louis Avenue, Hillsdale, Missouri 63121.
4. The SRT conducted the searches pursuant to Defendant's special condition of supervision.
5. At approximately 10:19 a.m., on November 12, 2020, the SRT conducted a search of Defendant's residence and items of contraband were found.

6. During a search of the residence, a Sig Sauer .357 pistol (Serial Number AF15159) was found in the top drawer of the nightstand next to a bed in a room in the residence.
7. The SRT found one .357 caliber live round of ammunition in the chamber of the Sig Sauer .357 pistol and 10 .357 live rounds of ammunition inside the pistol magazine that was inserted into the pistol.
8. An empty PT111 Pro Cal 9mm caliber pistol magazine and a Pro Mag extended pistol magazine containing 28 9mm caliber live rounds of ammunition were also found in the same nightstand drawer.
9. Defendant's special conditions of supervision contains only one provision regarding searches. It states:

“The defendant shall submit his person and any property, house, residence, office, vehicle, papers, computer, other electronic communication or data storage devices or media and effects to a search, conducted by a U.S. Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.”
10. The standard to conduct a search of the residence of someone who is on mandatory supervised release is reasonable suspicion.
11. “The Supreme Court has held that ‘the balance of these considerations requires no more than reasonable suspicion to conduct a search of [a] probationer’s

house.”” United States v. Makeeff, 820 F.3d 995 (8th Cir. 2016) (quoting Griffin v. Wisconsin, 483 U.S. 868 (1987)).

12. Defendant’s standard conditions of supervision includes condition number six, which states, “You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.”

13. In this case, there existed no reasonable suspicion that Defendant’s residence contained contraband or evidence of a violation of a condition of his supervised release.

14. In this case, all items of contraband were found in a drawer of a nightstand and not in plain view.

15. The search and seizure of evidence from Defendant’s residence violated Defendant's rights under the Fourth Amendment of the United States Constitution.

WHEREFORE, Defendant moves this Court to suppress as evidence in this case a Sig Sauer .357 pistol (Serial Number AF15159), 11 .357 caliber live rounds of ammunition, an empty PT111 Pro Cal 9mm caliber pistol magazine, a Pro Mag extended pistol magazine, and 28 9mm caliber live rounds of ammunition that was seized by the government on or about November 12, 2020 and any testimony concerning items seized as a result of the search complained of herein, for a hearing, and for such other relief as this Court deems just.

Respectfully submitted,

/s/ Ryan Martin

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CERTIFICATE OF SERVICE

The undersigned certifies that this document was filed this 26th day of May, 2021 using the electronic filing system and serving notice upon the United States Attorney's Office and all other relevant parties.

/s/Ryan Martin

Ryan Martin